

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/29/10 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-3, 5-8, 10, & 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herbst (DE3828627) in view of Behl (6,185,097). Herbst teach(es) the structure substantially as claimed, including at least one casing wall (14) having a recess (space between 15 & C) integrally formed therein, said recess facing an interior (D) of the casing, the recess is constructed with at least one ventilation opening (C), the recess is covered by a cover (15) on the outside at least in the area of the ventilation opening (C) and the cover (15) is attached to the casing wall, as well as unnamed connecting means securing said cover to said recess. The only difference between Herbst and the invention as claimed is that Herbst fail(s) to teach detachably affixing a cover to a portion of said casing wall forming a bottom of the recess. Behl, however, teaches attachment means (72) for detachably affixing a cover (36) to a portion (74) of a casing wall (38) forming a

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bottom of a recess (Fig. 2). It would have been obvious to one of ordinary skill in the art to utilize attachment means, as taught by Behl, to detachably affix the cover of Herbst to the bottom of the recess thereof, in order to provide a detachable connection therebetween, and in order to facilitate replacement of said cover, and since the substitution of one known connecting means for another would have yielded predictable results, thereby providing the structure substantially as claimed.

4. Regarding claim 2, Herbst as modified by Behl teaches a casing wall (14 in Herbst) and the cover (15) that form a substantially flush surface.

5. Regarding claim 3, Herbst as modified by Behl teaches a circumferential slit (B in Fig. 3 annotated) between cover (15) and wall (14).

6. Regarding claims 5 & 12, Herbst as modified by Behl teaches a cover (36 of Behl) has at least one cross-piece (72) which can be inserted in a corresponding fixing opening (74) of the recess (Fig. 2).

7. Regarding claims 6-8, Herbst as modified by Behl teaches a air-permeable (via through holes in 15) circular cover (15) arranged as an air-filter (since particulates larger than the holes in 15 will not pass therethrough). Even assuming, *arguendo*, that the cover (15) is not circular, whereas the examiner takes official notice that the practice of varying the shape of a cover well known in the art, it therefore would have been an obvious design consideration to one of ordinary skill in the art to modify the cover of Herbst as modified, by making said cover circular, depending on the desired needs of the person constructing the cover (e.g., intended use of the cover, aesthetic considerations, ease of manufacture, etc.), thereby providing the structure substantially as claimed.

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8. Regarding claim 10, Herbst as modified by Behl teaches a recess (space between 15 & C of Herbst) comprising a plurality of ventilation openings (C).

9. Regarding claim 13, Herbst as modified by Behl teaches a cover (15) spaced from said casing wall (14) to define an annular gap (B) running therebetween. Alternately, the examiner takes official notice that mere relocation of the essential working parts of a device is well known in the art; and that whereas applicant fails to recite any specific utility associated with the placement of the cross-pieces disclosed in the instant application, it therefore would have been an obvious design consideration to one of ordinary skill in the art to relocate the cross-pieces of Herbst as modified to the center of the cover thereof, in order to permit increased airflow at the edges thereof, and depending on the desired needs of the person constructing the cover (e.g., intended use of the cover, aesthetic considerations,, etc.), thereby providing the structure substantially as claimed.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herbst (DE3828627) & Behl (6,185,097) as applied to the claim(s) above, further in view of Paterson (5,547,272). Herbst & Behl teach(es) the structure substantially as claimed, including a cover (12). The only difference between Herbst & Behl and the invention as claimed is that Herbst & Behl fail(s) to teach a cover consisting of plastic. Paterson, however, teaches a cover consisting of plastic (col. 2, lines 51-52). It would have been obvious to one of ordinary skill in the art to make the cover of Herbst as modified from plastic, as taught by Paterson, in order to reduce the weight & increase the corrosion resistance thereof, thereby providing the structure substantially as claimed.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1-3, 5-10, & 12-13 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McCormick (4,989,506), Morales (2005/0286223), & Lee (6,396,684) teach structure similar to that disclosed by applicant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darnell M. Jayne can be reached on (571) 272-7723. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Janet M. Wilkens/  
Primary Examiner, Art Unit 3637

MWI  
4/2/10